

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71548 of 2023

Arising Out of PS. Case No.-101 Year-2023 Thana- CHACKMEHSI District- Samastipur

1. Suraj Kumar @ Suraj Kumar Mahto S/O Naresh Mahto R/O Village- Somnaha Chaksima, P.S- Chakmehsi, Distt.- Samastipur.
2. Jaggu Mahto @ Jaggu Kumar S/O Ganaur Mahto R/O Village- Somnaha Chaksima, P.S- Chakmehsi, Distt.- Samastipur.
3. Kiran Devi W/O Raj Kumar Baitha (Owner Of Hi Deluxe Motor Cycle Registration No. Br33aq-7781) R/O Village- Somnaha Chaksima, P.S- Chakmehsi, Distt.- Samastipur.
4. Sachin Kumar S/O Raj Kumar Mahto R/O Village- Somnaha Chaksima, P.S- Chakmehsi, Distt.- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Jitendra Narain Sinha, Advocate

For the Opposite Party/s : Mr. Tapeswar Sharma, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 07-11-2023 Heard Mr. Jitendra Narain Sinha, learned counsel appearing on behalf of the petitioners and Mr. Tapeswar Sharma, learned APP for the State.

2. The petitioners seek pre-arrest bail in connection with Chakmehsi P.S. Case No. 101 of 2023 registered for the offence punishable under Section 30 (a) of the Bihar Prohibition and Excise Act as amended up-to-date.



3. Allegation is of recovery of 95.275 litres of Indian made foreign liquor from the backside of the house of the petitioner no. 2. 915 ml of Indian made foreign liquor was recovered from a Motorcycle bearing Registration No. BR33AQ-7781, which belongs to the petitioner no. 3 and 375 ml of Indian made foreign liquor was recovered from a motorcycle without having registration number.

4. Learned counsel appearing on behalf of the petitioners submitted that petitioners are innocent and have falsely been implicated in the present case. Nothing was recovered from the conscious possession of the petitioners. Recovery of 95.275 litres of Indian made foreign liquor was made from the backside of the house of the petitioner no.2, which was an open place and easily accessible to anyone. Petitioner no. 3 is not named in the FIR but she has been made accused in the present case as she is the owner of the motorcycle bearing Registration No. BR33AQ-7781 from which 915 ml of Indian made foreign liquor was recovered. The said motorcycle was lifted from the house of petitioner nos. 3 and 4 at the instance of some motivated persons, as well as, due to political rivalry. Petitioners are not involved either in manufacturing or in trade of illicit liquor, which is prohibited in the State of Bihar.



Petitioners have clean antecedent. On these grounds, petitioners seek to be released on pre-arrest bail.

5. Learned APP for the State vehemently opposed the prayer for grant of pre-arrest bail and submits that due to sale and consumption of illicit liquor, day after day, hooch tragedy occurs and involvement of the petitioners cannot be ruled out from illicit trade of liquor.

6. Having considered the rival submissions made on behalf of the parties, as well as, the fact that nothing was recovered from the conscious possession of the petitioners. Recovery of 95.275 litres of Indian made foreign liquor was made from the backside of the house of the petitioner no.2, which was an open place and easily accessible to anyone. Petitioner no. 3 is not named in the FIR but she has been made accused in the present case as she is the owner of the motorcycle bearing Registration No. BR33AQ-7781 from which 915 ml of Indian made foreign liquor was recovered. The said motorcycle was lifted from the house of petitioner nos. 3 and 4 at the instance of some motivated persons, as well as, due to political rivalry. Petitioners are not involved either in manufacturing or in trade of illicit liquor, which is prohibited in the State of Bihar. Petitioners have clean antecedent. I am of the opinion that



petitioners have, *prima facie*, made out a case to be released on pre-arrest bail.

7. The petitioners, above named, are directed to be released on pre-arrest bail, in the event of their arrest or surrender before the Court below within a period of six weeks from today, on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of learned Court of Special Judge Excise-I, Samastipur, in connection with Chakmehsi P.S. Case No. 101 of 2023, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

8. **The Court below is directed to verify the criminal antecedent of the petitioners as stated in paragraph no. 3 of the bail application. If any other case is pending against the petitioners as what has been stated in paragraph no. 3, this order will lose its force automatically.**

(Purnendu Singh, J)

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